

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

17403US05

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/763,087

Filed

01/22/2004

First Named Inventor

Alexander G. MacInnis

Art Unit

2182

Examiner

Hassan

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Mirut P. Dala/

Signature

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Mirut P. Dala

Typed or printed name

☒ attorney or agent of record. 44,052  
Registration number \_\_\_\_\_

312-775-8000

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

January 18, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The information provided by you in this form will be subject to the following routine uses:

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Attorney Docket No. 17403US05)

In the Application of:	)	
	)	
MacInnis	)	<b>Electronically Filed</b>
	)	
Serial No. 10/763,087	)	<b>January 18, 2011</b>
	)	
Filed: 1/22/2004	)	
	)	
Examiner: Hassan	)	
	)	
Group Art Unit: 2182	)	
	)	
Confirmation: 6408	)	
	)	
	)	

**PREAPPEAL BRIEF**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This correspondence is filed in response to the Office  
Action of 09/15/2010. Attached please find: (1) Remarks.

#### REMARKS

Claims 1-3 and 11 are cancelled without prejudice. Claims 4, 5, 7-10, and 12 are presently pending and stand rejected. Pre-appeal review is respectfully requested.

Claim 4 was rejected under 35 U.S.C. 103(a) as obvious from the combination of Ben-Yoseph, Robinett, and Ottinger. Claim 4 recites, among other limitations, "wherein a predetermined minimum interval between subsequent accesses by a device is enforced, and wherein said predetermined minimum interval is long enough for another device to access".

The Office Action indicates that the foregoing is taught at Robinett, column 7, lines 50-67. Robinett is directed to a "Network Distributed Remultiplexer for Video Program Bearing Transport Streams". Robinett teaches assigning a dispatch time to the allocated descriptor of the transmit queue, depending on, for example, a receipt time of the transport packet to which the descriptor points and an internal buffer delay between receipt and output of the transport packet. Each transport packet is outputted in a time slot at a particular dispatch time, corresponding to a predetermined delay in the remultiplexer node. If more than one transport packet is to be outputted in the same time slot, each transport packet is outputted in a separate consecutive time slot.

Assignee respectfully traverses the rejection. It is first noted that Robinett is blind to the device originating the transportation packets. Therefore, not "predetermined minimum interval between subsequent access by a device is enforced". Robinett merely describes a first come, first serve transmission. Note that if the access time of a device is defined as the time the transport

packet is placed in the queue, there is no time restriction against the same device placing another transport packet in the queue. If the time of access is defined as the time of transmission, there is no restriction against the same device transmitting two consecutive packets. In contrast, Assignee claims "wherein a predetermined minimum interval between *subsequent accesses by a device is enforced*, and wherein said predetermined minimum interval is *long enough for another device to access*".

Accordingly, for the above reasons, Assignee respectfully traverses the rejection to claim 4 and its dependent claims.

### CONCLUSION

For at least the foregoing reasons, Assignee submits that each of the pending claims are now in a condition for allowance. Accordingly, Examiner is requested to pass this case to issuance.

It is believed that all monies for the actions described herein are provided with this correspondence. To the extent that additional monies are required for any of the actions requested in the correspondence, Commissioner is authorized to charge such fees and credit any overpayments to deposit account 13-0017.

Respectfully Submitted



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Date: January 18, 2011

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